IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.85 OF 2003

Ahmed Moiddin Kutti & Ors. ...Petitioners

Versus

Mohammed Hanif Qureshi & Anr. ...Respondents

Shri V.P.Sawant for the Petitioners.
Shri Niyaz Ahmed for the Respondent No.1.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 23, 2007.

P.C.:

1. Heard the Advocates appearing for the parties. The Petitioners have alleged that the first Respondent committed a breach of order dated 23rd July, 2001 by which parties were directed to maintain status-quo. By the said order, earlier ad-interim order dated 05th May, 2000 passed by this Court was confirmed. The allegation in the Contempt Petition is that the first Respondent in breach of order of status-quo has carried out construction of a kitchen platform with a small washing area in the room on the front side out of the two rooms in his possession and the front room has been sublet to the second Respondent.

2. Initially the first Respondent raised a

contention that he was not served with the ad-interim order passed on 05h May, 2001 and an affidavit to that effect was filed. The second Resopndent filed an affidavit in this Court stating that on humanitarian grounds the first Respondent had allowed him to occupy the front room and now he has vacated the front room. There is an additional affidavit filed by the first Respondent explaining as to why he allowed the second Resopndent to use the front room. He has stated that he gratuitously allowed the second Respondent to use the room. There is a statement on oath made in the first affidavit that no construction has been carried out. In the second affidavit, the first Respondent has given an assurance that he has not flauted the orders of the Court and henceforth he shall abide by the said orders passed by this Court. It is stated that the first Respondent is in financial difficulties and is suffering from hypertension.

3. The learned Advocate for the first Respondent states that the first Respondent has paid a donation of Rs.2,500/- to Maharashtra State Legal Services Authority. As of today, the first Respondent is in possession of the suit premises and the second

Respondent has vacated the room which was allowed to be occupied by him. There is now an assurance given by the first Respondent to abide by the interim order passed by this Court. Considering the aforesaid facts and considering payment of donation by the first Respondent, no case is made out for taking any further action against the first Respondent. So far as the second Respondent is concerned, there was no order passed against him either on 05th May, 2000 or 23rd July, 2001. Hence, no case is made out for proceeding further against the second Respondent.

4. Hence, notice issued against the Respondents is discharged. Petition is disposed of.

JUDGE